



Americans for Immigrant Justice

formerly Florida Immigrant Advocacy Center

April 23, 2012

John Morton
Director
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington DC 20536

Sent via Federal Express

**Re: Request to Overturn Miami ICE Decision to Deny Stay of Removal to
Guatemalan Nationals Beaten by ICE Agents in November 2008 (Adolfo
Garcia Diaz A200-045-203 and Julio Diaz Sales A99-573-588)**

Dear Mr. Morton:

We are writing to request your intervention in the case of two young men from Guatemala who are facing removal from the United States by May 18, 2012.

Adolfo Garcia Diaz, 20, and Julio Diaz Sales, 21, were among a group of housemates who were beaten by Immigration and Customs Enforcement (ICE) agents in a raid on their home in Homestead, Florida on November 19, 2008, during the previous administration. ICE agents mistakenly targeted their home during a multi-city operation against a sex trafficking network that ICE called Operation RES-Q. No one in the household was involved in any wrongdoing. However, Mr. Garcia, Mr. Diaz and others were arrested and detained for immigration violations and ordered removed from the United States.

Mr. Garcia and Mr. Diaz, Mam-speaking Mayans from Guatemala, cooperated in criminal investigations, carried out by the Office of Inspector General (OIG), the U.S. Attorney's Office, and the U.S. Department of Justice (DOJ), Civil Rights Division, into ICE's use of excessive force during the raid. Although DOJ declined to prosecute the ICE officers, they did provide U-visa certifications to Mr. Garcia, Mr. Diaz, and two other Guatemalans who were also beaten during the raid and aided in the investigation. All four are represented by Americans for Immigrant Justice (AI Justice), which filed U-visa applications on their behalf. All but one were denied U-

visas, including Mr. Garcia and Mr. Diaz. ICE recently granted a stay of removal in one case, but denied this relief to Mr. Garcia and Mr. Diaz. See attached Deferred Action Request Adolfo Garcia, dated August 16, 2011 and Deferred Action Request Julio Diaz, dated August 16, 2011. AI Justice requested that ICE reconsider denial of the requests, but ICE reaffirmed the previous decision, and ordered the gentlemen to return to Guatemala before May 18, 2012. See attached March 21, 2012 letters from Marc Moore, Field Office Director.

We believe there are important reasons for your involvement, having to do with justice for these young men, fair and equal treatment, and ensuring that ICE's message to immigrant communities is that ICE takes abuses of immigrants seriously.

This case received a great deal of media attention, including coverage in *New York Times* and has been closely followed by immigrant advocates, faith-based groups and immigrants of all nationalities. *El Nuevo Herald*, a Spanish language daily owned by the Miami Herald recently published a story concerning the raid, and the imminent deportations. See attached *Dos guatemaltecos en Homestead accusan a ICE de Maltrato*, *El Nuevo Herald*, April 19, 2012.

A summary of this case follows:

- **There was no legitimate excuse for the beatings and excessive force used by ICE agents against these two young men and their housemates.**

Mr. Diaz and Mr. Garcia both stand under 5'5" tall, are slight in build, and were 17 years old when ICE officers raided their home and beat them. The head of Broward Transitional Center (BTC), where the men were detained, and the Guatemalan consulate both expressed alarm when they met the victims after they arrived in detention. Indeed, BTC Administrator Jon Dobre was so alarmed when he saw our clients bloodied and bruised upon arrival that he requested an immediate investigation by DHS' Office of Inspector General and sent our clients to medical for treatment of their injuries. The following day, members of the Guatemalan Consulate visited our clients and observed their injuries. See Letter from Felipe Alejos Lorenzara, Consul General of Guatemala attached to the deferred action requests. The U.S. Attorney's Office and Civil Rights Division of the Department of Justice found the testimony of Mr. Garcia, Mr. Diaz and our other two clients regarding the raid to be credible and consistent in all material aspects. They declined to prosecute ICE officers for unlawful assault or use of excessive force due simply to the high standard required for a conviction.

- **The Office of Inspector General investigation was deeply flawed.**

Delays in conducting interviews, coercive questioning techniques, serious issues with translation, and failure to record interviews or take adequate notes all characterized OIG's investigation. See letter of concern from Florida Immigrant Advocacy Center to OIG attached to deferred action requests. The OIG not surprisingly concluded, according to a partial, redacted release of the OIG report of the investigation, that excessive force was not used. However, it also found that an unidentified ICE agent lied in a sworn affidavit, indicating an effort to cover up the truth. Furthermore, following our request for an investigation, ICE officials threatened to bring assault charges against nine of the assault victims, all young men of small stature, in an attempt to intimidate the victims.

- **This was part of an ICE operation that clearly went awry.**

Operation RES-Q was aimed at a sex trafficking ring based in Mexico and operating in South Florida. ICE carried out simultaneous raids on homes in Homestead, Miami, Ft. Lauderdale, West Palm Beach and Ft. Myers on November 19, 2008. However, as we met with persons from multiple households in Homestead impacted by the operation, we became concerned not only with ICE's unreasonable use of force, but with its competence and/or intent. We wondered how and why these homes had been identified since we saw brute force being used against innocent residents – working-class Mexicans and Central Americans – who had no evident connection with human or sex trafficking. We suspected that ICE either was careless in its investigation, given that it targeted so many members of a vulnerable community of immigrants of color who were unlikely to fight back, or that ICE used Operation RES-Q as a cover to intimidate this vulnerable community. Our organizations were among several that protested the abuses of civil and constitutional rights that occurred during the operation and called for an investigation. Press reports at the time, which showed only four arrests of targeted persons, heightened our suspicions.

On the first anniversary of the raid, WeCount! and the Florida Immigrant Coalition submitted a FOIA request to ICE for information on the operation, and filed suit when the request was denied. Information obtained thus far has confirmed press reports and our interviews: of the arrests in Operation RES-Q, only four to seven were targets, seven to nine were witnesses, and the remainder – with figures ranging from 80 to 95 persons – were simply arrested on immigration violations and turned over to ICE Enforcement and Removal Operations to await removal proceedings. Of the multiple sites raided during Operation RES-Q, few had anything to do with the alleged criminals that were targeted.

- **All four of our Guatemalan clients had very similar cases and all cooperated fully with authorities, yet arbitrary decisions by USCIS and ICE resulted in vastly different outcomes for Mr. Garcia and Mr. Diaz.**

All four of our clients who had been assaulted by ICE agents on November 19, 2008 were released from BTC under Orders of Supervision. They all were interviewed by the U.S. Attorney's Office and the Department of Justice, Civil Rights Division. The U.S. Attorney's Office signed U-visa certifications for all four men. They were victims of the same raid, cooperated equally in the investigation, have complied with all the requirements of their Orders of Supervision, have similar ties to the community, and none have criminal records. Yet only one was granted a U-Visa. The remaining three then applied for Stays of Removal, but only one was granted a stay. This clearly illustrates the arbitrary and capricious nature of the decision making process.

- **It is in the interest of the government as well as the public to stay the removal of Adolfo Garcia and Julio Diaz.**

ICE has testified before Congress about Operation RES-Q, hailing it as a success story against human trafficking. We have no way of judging how successful it was in rounding up its targets, but hope that is it never reproduced as a model. It cast a wide net, impacting dozens of individuals and hundreds of families who had nothing to do with Operation RES-Q's ostensible targets. It created a climate of fear in Homestead, seriously damaging law enforcement-community relations and, it violated people's basic constitutional and civil rights. In these respects, it was a dismal failure.

We no doubt will continue to disagree about the wisdom, justice and politics of ICE's current enforcement policies. However, if ICE is ever to overcome its legacy of abuse of power and impunity, typified by the large-scale workplace raids carried out during the Bush Administration as well as Operation RES-Q, then it must accept responsibility for its actions. Many of those who have abused their power in the past continue to be employed by ICE. The agents who beat Adolfo Garcia Diaz and Julio Diaz Sales are likely among the rank-and-file employees who are fighting tooth and nail the implementation of ICE's "prosecutorial discretion" policies. Yet when Mr. Garcia and Mr. Diaz initially applied for deferred action after they were denied U-visas, AI Justice was told that the very agency responsible for the raid would be asked to adjudicate the requests. In order to avoid an action we felt was extremely inappropriate, we converted the deferred

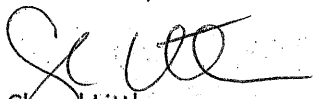
action requests into applications for stays or removal so that they would be adjudicated by an independent division of ICE.

- **Mr. Garcia and Mr. Diaz are hardworking, honest people who suffered needlessly at the hands of ICE agents.**

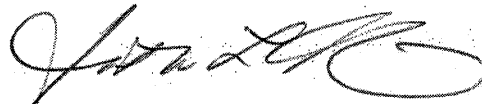
Mr. Garcia and Mr. Diaz are hardworking, church-going young men who have no criminal records, and are not within ICE's enforcement priorities. Furthermore, they have suffered physically and emotionally from the crime that was committed against them. They deserve just treatment.

We have attached FIAC's letter of August 16, 2011 to Field Office Director Marc Moore, which includes a great deal of documentation substantiating our concerns and supporting our request for relief.

Sincerely,



Cheryl Little
Executive Director
Americans for Immigrant Justice



Jonathan Fried
Executive Director
WeCount!

cc: President Barack Obama
Secretary Janet Napolitano, Department of Homeland Security
Andrew Strait, Public Advocate, DHS, *via email*
Kelly Ryan, Acting Assistant Secretary for Immigration and Border Security, DHS, *via email*
Marc Moore, Field Office Director, Miami Field Office, DHS *via email*, without attachments